

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Bradley & Janet Brown,
Appellants,

v.

Warren County Board of Review,
Appellee.

ORDER

Docket No. 13-91-0367
Parcel No. 42-120-16-0421

On January 27, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney James Nervig of Brick Gentry, PC, Des Moines, Iowa represented appellants Bradley and Janet Brown. Assistant County Attorney Karla Fultz is counsel for the Board of Review. County Assessor Brian Arnold represented it at hearing. Both parties submitted evidence. The Appeal Board now, having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Bradley and Janet Brown are the owners of agriculturally classified property located at 3036 Cumming Avenue, Cumming, Iowa. The January 1, 2013, assessment for the property at issue was \$540,600, allocated as \$335,600 in dwelling value and \$205,000 in building improvement value.

The Browns appealed the assessment to the Warren County Board of Review on the grounds that it was not equitable as compared with the assessments of other like property and that there was an error in the assessment under Iowa Code sections 441.37(1)(a)(1) and (4). The Browns' error claim was that there was no air conditioning in one of the out buildings as listed on the property card. The Board of Review reduced the assessment to \$503,300, by reducing the building improvement value to \$167,700.

The Browns then appealed to this Board reasserting their claims. They specifically focus their appeal on the value attributed to the building improvements. They do not dispute the classification of the land or the value of the dwelling.

According to the property record card, the building improvements at issue include a 3960-square-foot, metal pole building built in 2005. 1350 square feet of this building are used for an air-conditioned/heated showroom and office, and 2610 square feet are used for a heated, metal shop. There is also a 5616-square-foot, pole-frame steel utility building used as a warehouse.

The Browns own 73.96 acres of agricultural land in contiguous parcels. (Exhibits 3 & 5). The improvements are located on a 34.960 parcel (Parcel # 43-000-16-0421) and are listed with a separate parcel number (Parcel # 42-120-16-0421).

Bradley Brown testified his outbuildings are assessed higher than five similar pole-frame, office/shop buildings used for commercial purposes within Cumming city limits (Exhibits 4, 7-12). These properties have average assessed values of \$59,080, and he believes support an assessment of \$60,000 for his office/shop building. Parcel summaries for these properties are included in the certified record.

Address	Year Built	Square Feet	Class	30% AG Factor	Assessed Value	Assessed \$psf
Subject	2005	3960	Agricultural	No	\$ 130,300	\$ 32.90
3408 Clarke	2005	12,650	Agricultural	Yes	\$ 74,600	\$ 5.90
4328 N Dawson	1995	2880	Commercial	No	\$ 78,600	\$ 27.29
503 N 44th St	1989	4608	Industrial	No	\$ 56,700	\$ 12.30
2754 Cumming	2005	5000	Residential	No	\$ 43,800	\$ 8.76
537 N 44th St	1965/91	3264	Commercial	No	\$ 30,900	\$ 9.47

The buildings with commercial, industrial, and residential classifications do not have an agricultural factor applied to their building value. Only one of the properties, 3408 Clarke, is agriculturally classified like the subject property, and that building has a 30% agricultural factor applied to the building value. The Browns' building, although agriculturally classified, has not been

given the agricultural factor. Brown pointed out the property located at 3408 Clarke is larger than his, fully heated, used as a commercial banquet facility called “Happy Apple,” and has a lower assessment than his. (Exhibit 7).

Six additional buildings similar to the Browns’ steel utility warehouse are listed in Exhibit 4, and parcel summaries are included in the certified record.

Address	Year Built	Square Feet	Class	30% AG Factor	Assessed Value	Assessed \$psf
Subject	2010	5616	Agricultural	No	\$ 37,400	\$ 6.66
2686 Clarke	1973	4050	Agricultural	Yes	\$ 3200	\$ 0.79
15-000-18-0680	1981/85	13,860	Agricultural	Yes	\$ 11,200	\$ 0.81
3327 30th	2008	7200	Agricultural	Yes	\$ 10,500	\$ 1.46
2498 Adams	1989/91	7785	Agricultural	Yes	\$ 15,600	\$ 2.00
3178 40th	1992	2880	Agricultural	Yes	\$ 6700	\$ 2.33
503 N 44th St	1989	4608	Industrial	No	\$ 56,700	\$ 12.30

It is clear from the properties identified above that the Browns’ building is the only one on agriculturally classified land that did not have the 30% agricultural factor applied to it.

At the request of this Board, Arnold provided property record cards for the two buildings he considered most similar to the Browns’ buildings for assessment purposes. These properties are located at 4328 N Dawson and 503 N 44th Street and included in the previous charts. The property on N Dawson is classified commercial and the property on N 44th Street is classified industrial. Because these buildings are classified differently than the subject property, the agricultural factor would not apply to them, and they are not comparable for assessment purposes.

Assessor Brian Arnold testified for the Board of Review. He explained the Browns’ dwelling is listed as a separate parcel because dwellings located on agricultural land are taxed as residential property, while the land is taxed as agricultural. (Exhibit B).

Arnold reported the reason for the increase in Browns’ assessment was that he removed the agricultural factor, which was previously applied to the buildings’ assessments. In Arnold’s opinion,

the administrative rules authorize him to value the buildings as commercial without the agricultural factor even though they are situated on agricultural land. When the Browns' residence was set off as a separate parcel, Arnold moved most of their outbuildings to this parcel as well. He reasoned that since the house is assessed as residential property with no agricultural factor applied to it, he could assess the outbuildings similarly and not apply the agricultural factor to them despite their location on an agriculturally classified parcel. Arnold testified that because the Browns used the buildings for a commercial purpose to conduct lawnmower sales and repair, he was justified in not applying the agricultural factor to the assessment.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). However, if property is classified

agricultural property it is to be assessed and valued based on its productivity and net earning capacity. § 411.21(1)(e).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965).

It is undisputed that the proper classification of Browns' property is agricultural. There are only two 40-acre tracts of farm land owned by the Browns. The buildings at issue sit on one of the two 40-acre tracts (parcel 42-120-16-0421), which is an agriculturally classified parcel. Arnold believes he has the discretion when applying the agricultural factor. He believes that no agricultural factor should be applied to buildings not *used* for agricultural purposes despite their location on an agriculturally classified land. He essentially contends these building are no different than a garage that would not receive the agricultural factor despite their location on agriculturally classified land. The Assessor, however, has created his own interpretation of these provisions and has selectively valued particular buildings located on the agriculturally classified property. This is not what the law provides. Rule 71.1(1) specifically states, "There can be only one classification per property. An assessor *shall not* assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building." The Assessor's interpretation has essentially created a dual classification for the Browns' property, which is prohibited by law.

The Iowa Administrative rules prescribe how agricultural buildings are assessed. R. 701-71.3. The rule requires the uniform application of the agricultural factor to all agricultural buildings. *Id.* Despite Arnold's contention, the administrative rules specifically dictate that residences and their appurtenances located on agriculturally classified properties are to be *valued* like other residential real

estate. R. 701-71.1(3) & (4) (noting “Residential real estate located on agricultural land shall include only buildings as defined by this subrule”). This is the only exemption under the rule. *Id.* A similar exception does not exist for any other building located on the agricultural land, regardless of its alleged non-agricultural use.

The Browns’ buildings are on agriculturally classified land and must be valued as directed in administrative rule. R. 701-71.3. The rule provides that, “*The agricultural factor must be applied uniformly to all agricultural buildings and structures* in the assessing jurisdiction.” This rule mandates the 30% agricultural factor for Warren County should be applied to the Browns’ building improvements uniformly with the other agricultural buildings in the county, despite the Assessor’s contention that they are being commercially used. The assessed values should be adjusted as shown below. The Assessor did not apply the 30% agricultural factor uniformly to the Browns’ property as he did to other agricultural properties in Warren County. Further, it appears there may be other properties in Warren County likewise being inequitably treated. The preponderance of the evidence shows that the Browns’ property is inequitably assessed under the *Eagle Food* test because the assessor failed to apply an assessing method uniformly to their property and to similar agricultural properties.

We further note it would be prudent for the Assessor and the Warren County Board of Review to consult with the Iowa Department of Revenue to ensure that their practices are in conformance with assessment law in the future.

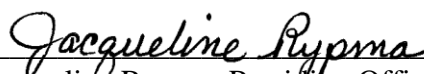
The assessed values should be adjusted as shown below.

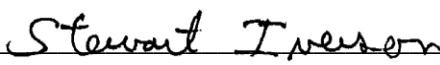
Improvement	BOR Value	After 30% Ag Factor
Office	\$ 74,200	\$ 22,260
Shop	\$ 56,100	\$ 16,830
Warehouse	\$ 37,400	\$ 11,220
Subtotal	\$ 167,700	\$ 50,310
Dwelling	\$ 335,600	335,600
Total	\$ 503,300	\$ 385,910

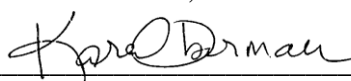
The APPEAL BOARD ORDERS the 2013 assessment of the property owned by Bradley and Janet Brown located at 3036 Cumming Avenue, Cumming, Iowa, as set by the Warren County Board of Review is modified as set forth herein.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Warren County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected immediately.

Dated this 13th day of March 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:

James E. Nervig
Brick Gentry P.C.
6701 Westown Parkway, Suite 100
West Des Moines, IA 50266
ATTORNEY FOR APPELLANTS

Carla Fultz
Assistant Warren County Attorney
301 N Buxton, Ste 301
Indianola, Iowa 50215
ATTORNEY FOR APPELLEE

Brian Arnold
301 N Buxton, Ste 108
Indianola, Iowa 50215
REPRESENTATIVE FOR APPELLEE

Traci VanderLinden
301 N. Buxton, Ste. 101
Indianola, IA 50125
AUDITOR